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**UNITED STATES BANKRUPTCY COURT**  
**DISTRICT OF NEVADA**

In re:

USA Commercial Mortgage Company,

Debtor.

Case No. BK-S-06-10725-LBR

Chapter 11

**Amended USACM Liquidating Trust's  
Motion To Allow De Minimus Claims**

Hearing Date: July 26, 2011

Hearing Time: 1:30 p.m.

Estimated Time for Hearing: 10 minutes

The USACM Liquidating Trust (the "USACM Trust") moves to allow a group of claims that the Trustee deems to be too small to be economical to process for objection. The USACM Trust has been reviewing and (at times) objecting to claims on a loan by loan basis. Given the small aggregate amount of the claims associated with some of the loans, it does not make sense to review USA Commercial Mortgage Company's files regarding the particular loan and then prepare objections to some of those claims. Simply put, the Trust would likely spend more money to review and object to these claims than it would by just allowing them. Thus, the Trust moves the Court to allow these claims.



## MEMORANDUM

### I. JURISDICTION

The Court has jurisdiction over this Objection pursuant to 28 U.S.C. §§ 1334 and 157. Venue is appropriate under 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding under 28 U.S.C. § 157(b)(2)(B). The statutory predicates for the relief requested herein are 11 U.S.C. § 502 and Bankruptcy Rule 3007.

### II. BACKGROUND

On April 13, 2006 USA Commercial Mortgage Company ("USACM"), USA Securities, LLC, USA Capital Realty Advisors, LLC, USA Capital Diversified Trust Deed Fund, LLC, USA Capital First Trust Deed Fund, LLC (collectively "Debtors"), filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code. Debtors continued to operate their businesses, if any, as debtors-in-possession pursuant to 11 U.S.C. §§ 1107(a) and 1108. Post-petition management of the Debtors was under the direction of Thomas J. Allison of Mesirow Financial Interim Management, LLC, who served as the Chief Restructuring Officer.

On January 8, 2007, the Court entered its Order Confirming the "Debtors' Third Amended Joint Chapter 11 Plan of Reorganization" as Modified Herein [Docket No. 2376]. Under the Plan, the USACM Trust is the successor to USACM with respect to standing to seek allowance and disallowance of Claims. The USACM Trust exists as of the Effective Date of the Plan, March 12, 2007. Geoffrey L. Berman is the Trustee.

### III. APPLICABLE AUTHORITY

Under the Bankruptcy Code, any claim for which a proof of claim has been filed will be allowed unless a party in interest objects. If a party in interest objects to the proof of claim, the Court, after notice and hearing, shall determine the amount of the Claim and shall allow the Claim except to the extent that the Claim is "unenforceable against the debtor . . . under any . . . applicable law for a reason other than because such claim is



contingent or unmatured.” 11 U.S.C. § 502(b). The USACM Trust is entitled to object to proofs of claim under 11 U.S.C. § 502(a). This objection is timely under the Plan and the Court’s orders.

#### IV. MOTION TO ALLOW DE MINIMUS CLAIMS

The Trust has been processing claims on a loan by loan basis. As the Court will recall, the overwhelming majority of the servicing rights for the then outstanding loans were sold to Compass Partners per the Court’s order of December 2006, followed by the financial issues and direct lender litigation that followed that sale, the Trust has not had direct access to current information on almost all of the outstanding loans. To complete the review of each loan, the Trust reviews the loan file (to the extent there was one) and then searches the database for additional documents that may be relevant. The Trust has also checked the public record and other available sources of information to determine the disposition of collateral securing a loan. In any event, this takes at least several hours of attorney time. It also takes attorney and paralegal time to draft the objections, notices of hearing, etc. In addition, it takes time and money to mail out the notices to the direct lenders. An attorney must also prepare for and appear at a hearing on the objection. In a limited number of cases, Direct Lenders have opposed the objections and that have led to a mediation and time intensive negotiations to try to settle the matter. The Trust must pay for the above costs in hundred cent dollars. In addition, the Court incurs its own burdens dealing with claim objections.

The Trustee does not know how much the USACM Trust will ultimately distribute on a given claim, but to date the Court has authorized an interim distribution of 4.92% of the allowed claim amount. The Trust expects to make a second distribution once the claims objection process is completed. The amount of the second distribution is unknown, but the Trustee does not believe that it will exceed the amount of the first distribution.



Below is the list of loans affected by this motion and the total amount of claims associated with those loans:

<i>Loan</i>	<i>\$ Amount of Claims</i>
Fiesta Inland 1.3	\$6,923
Lady Luck	14,615
Aware TM-Parris/\$500,000,000	15,000
Palm Coast Blue Water	25,000
PerUSA, LLC	39,009
Tanamera Resort Condominiums, LLC	82,000
Bundy Canyon \$8.9	100,000
Rio Bravo \$4.5M	100,000
Rio Bravo 2nd \$2.3M	118,050
Southern California Land 2 <sup>nd</sup>	330,367
HFA-Clear Lake 2 <sup>nd</sup> (HFAH Clear L)	450,000

Attached as **Exhibit A** is a list of the claims that the Trustee is moving to allow. As to each, the following information is given: claim number, name of the claimant, address for the claimant, amount of the claim and the name of the loan upon which the claimant appears to base the claim.

In light of the very limited amounts being sought against these loans, the initial distribution that would be applicable to the claims assuming they are allowed as filed (the total interim distribution on these claims is approximately \$67,000, which amount has been fully reserved for since the allowance of the initial creditor distribution), and the costs to the estate to pursue objections to these claims, the Trust respectfully requests that the Court allow these claims in full.

## V. NOTICE

Because each claim is proposed to be allowed in the amount filed, the USACM Trust submits that notice of this motion need not be provided to the individual claimants,



1 much less the master mailing matrix. Accordingly, the Trust has limited notice to those  
2 parties requesting post-confirmation notice pursuant to the Plan.

3 Dated: June 30, 2011.

4 **LEWIS AND ROCA LLP**

5  
6 By: s/ Robert M. Charles, Jr. (NV 6593)  
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14 *Counsel for USACM Liquidating Trust*

12 Copy of the foregoing  
13 Mailed by first class postage prepaid  
14 U.S. Mail or via e-mail if an  
15 e-mail address available to the  
16 parties listed on the  
17 Post Effective Date Limited  
18 Service List on June 30, 2011.

17 /s/ Matt Burns

18 Matt Burns  
19 Lewis and Roca LLP

**USACM Trust  
De Minimus Claims  
Single Loan Claims**

<b>Claim</b>	<b>Date Claim was Filed</b>	<b>Name</b>	<b>Address</b>	<b>Total Claim Amount</b>	<b>Total Claim Amount Relating to the Subject Loan</b>	<b>Loan name on Which Claim is Based</b>
10725-01101	11/8/2006	Averett, George Michael & Claire H	760 Little Sweden Rd Heber City, UT 84032-3503	50,000.00	50,000.00	Southern California Land 2nd
10725-02410	1/18/2007	Beckman, Gary	6756 Quinella Dr Las Vegas, NV 89103-4356	50,000.00	50,000.00	Tanamera Resort Condominiums, LLC
10725-01309	11/13/2006	Fetterly, Lynn L IRA	Po Box 5986 Incline Village, NV 89450	39,009.00	39,009.00	PerUSA
10725-00135	8/11/2006	Fraser Atwater Properties, LLC	Edward Fraser 14220 Sorrel Ln Reno, NV 89511	25,000.00	25,000.00	HFA Clear Lake, LLC 2nd
10725-00300	9/29/2006	Geller, Robert	1849 Cherry Knolls St Henderson, NV 89052	25,000.00	25,000.00	Palm Coast Blue Water
10725-01071	11/7/2006	O'Sullivan, Patrick Edward & Soon Young	7328 Gentle Valley St Las Vegas, NV 89149-1616	25,000.00	25,000.00	HFA Clear Lake, LLC 2nd
10725-00147	8/15/2006	Ohms, Sandra & Paul	Joshua D Brysk Law Offices Of James G Schwartz 7901 Stoneridge Dr, Suite 401 Pleasanton, CA 94583	30,250.00	30,250.00	Rio Bravo 2nd \$3.2 Loan
10725-00313	10/4/2006	Schorr, Marc	Po Box 15107 Las Vegas, NV 89114	100,000.00	100,000.00	Bundy Canyon \$8,900,000
10725-00396	10/2/2006	Walls Family Trust Dtd 12/10/97	C/O Joseph P & Ellen Walls Ttees 2778 Bedford Way Carson City, NV 89703-4618	100,000.00	100,000.00	Rio Bravo \$4.5
10725-01374	11/13/2006	Walther, Stephen G & Sonja	7990 Castle Pines Las Vegas, NV 89113	25,000.00	25,000.00	Southern California Land 2nd
10725-01010	10/27/2006	Yonai Trustee, Gregory D	1982 Country Cove Ct Las Vegas, NV 89135-1552	37,800.00	37,800.00	Rio Bravo 2nd \$3.2 Loan

**EXHIBIT A**

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**USACM Trust  
De Minimus Claims  
Multiple Loan Claims**

<b>Claim</b>	<b>Date Claim was Filed</b>	<b>Name</b>	<b>Address</b>	<b>Total Claim Amount</b>	<b>Total Claim Amount Relating to the Subject Loan</b>	<b>Loan Name on Which Claim is Based</b>
10725-01227	11/9/2006	Brauer, Nancy	2222 Albion St Denver, CO 80207	75,000.00	25,000.00	HFA Clear Lake, LLC 2nd
10726-00010	5/30/2006	Cronk, Arlene	C/O Michael Lehnert, Esq. 429 Marsh Ave Reno, NV 89509	272,206.96	32,000.00	Tanamera Resort Condominiums, LLC
10725-01884	1/8/2007	Fallon, Thomas	Usaid Thailand Apo Ap 96546	216,214.60	25,367.04	Southern California Land 2nd
10725-01156	11/9/2006	Florence Bolatin Living Trust Dtd 10/28/93	C/O Florence Bolatin Ttee #1 Jefferson Ferry Drive Apt 7171 South Setauket, NY 11720	110,712.00	6,923.08	Fiesta-Inland Empire \$1,300,000
10725-01156	11/9/2006	Florence Bolatin Living Trust Dtd 10/28/93	C/O Florence Bolatin Ttee #1 Jefferson Ferry Drive Apt 7171 South Setauket, NY 11720	110,712.00	14,615.38	Lady Luck Hotel & Casino \$8,775,000
10725-01156	11/9/2006	Florence Bolatin Living Trust Dtd 10/28/93	C/O Florence Bolatin Ttee #1 Jefferson Ferry Drive Apt 7171 South Setauket, NY 11720	110,712.00	15,000.00	Aware TM-Parris/ \$500,000,000
10725-00146	8/15/2006	Maheshwari, Rabinder & Usha	Joshua D Brysk Law Offices Of James G Schwartz 7901 Stoneridge Dr Pleasanton, CA 94583	153,831.94	100,000.00	HFA Clear Lake, LLC 2nd
10725-00608	10/16/2006	Murray, Lamoine	4934 Larkspur Ln Ogden, UT 84403-4426	178,867.00	Unknown	Tanamera Resort Condominiums, LLC
10725-00443	10/5/2006	Murray, Lamoine & Lois H	4934 Larkspur Ln Ogden, UT 84403-4426	178,867.00	Unknown	Tanamera Resort Condominiums, LLC
10725-00844	11/13/2006	Premiere Holdings Inc Defined Benefit	10120 W. Flamingo, Suite 4-12 Las Vegas, NV 89147	380,000.00	50,000.00	Southern California Land 2nd
10725-01277	11/10/2006	Premiere Holdings Inc Defined Benefit Pen Plan & Trust	10120 W. Flamingo, Suite 4-12 Las Vegas, NV 89147	380,000.00	50,000.00	Southern California Land 2nd
10725-02088	1/11/2007	Robert W Ulm Living Trust Dtd 4/11/05	Robert W Ulm Ttee 414 Morning Glory Rd St Marys, GA 31558	1,376,330.00	25,000.00	HFA Clear Lake, LLC 2nd

EXHIBIT A

2411731.1



**USACM Trust  
De Minimus Claims  
Multiple Loan Claims**

<b>Claim</b>	<b>Date Claim was Filed</b>	<b>Name</b>	<b>Address</b>	<b>Total Claim Amount</b>	<b>Total Claim Amount Relating to the Subject Loan</b>	<b>Loan Name on Which Claim is Based</b>
10725-00144	8/15/2006	Roloff, Rodney L & Sharyn	Law Offices Of James G Schwartz 7901 Stoneridge Drive Suite 401 Pleasanton, CA 94583	171,250.00	50,000.00	Rio Bravo 2nd \$3.2 Loan
10725-00275	9/27/2006	Sailon, David & Joan	2436 Cliffwood Dr Henderson, NV 89074	Unknown	Unknown	HFA Clear Lake, LLC 2nd
10725-02428	1/12/2007	Tiki Investment Enterprises LP	2578 Highmore Ave Henderson, NV 89052	2,400,256.00	250,000.00	HFA Clear Lake, LLC 2nd
10725-02485	6/4/2007	Troy Allen Cox	6483 Rosemount Ave Las Vegas, NV 89156-5962	81,363.74	80,000.00	Southern California Land 2nd
10725-02180	1/12/2007	Wisch, Craig	210 Andrew Ave Naugatuck, CT 06770	317,369.28	50,000.00	Southern California Land 2nd

**EXHIBIT A**

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